

**In the United States District Court
for the Southern District of Georgia
Brunswick Division**

CHARLES A. FREEMAN,

Plaintiff,

v.

CV 2:23-022

DANIEL BARBAGELATA,
ALDRIDGE/PITE LLP, and
LAKEVIEW LOAN SERVICING LLC,

Defendants.

ORDER

Before the Court is a motion to remand filed by Defendants Daniel Barbagelata, Aldridge/Pite LLP, and Lakeview Loan Servicing LLC. Dkt. No. 4. Plaintiff has filed no response in opposition, and the time for doing so has passed.

On January 11, 2023, Plaintiff Charles Freeman filed a complaint for wrongful foreclosure in Glynn County State Court. Dkt. No. 1-1. Then, on February 8, 2023, Plaintiff filed a notice of removal in this Court, stating "There have been, and continue to be, violations against the civil and constitutional rights[] of this/these undersigned Defendant(s)." Dkt. No. 1.

Defendants move to remand pursuant to 28 U.S.C. § 1447, stating Plaintiff's removal was improper. Dkt. No. 4-1 at 2; RayBiotech, Inc. v. Xuesong Chen, No. 1:16-cv-2479, 2017 WL 7692423, at *2 (N.D. Ga. Jan. 19, 2017) ("Any defect in the removal

procedure, if timely raised, may provide a ground for remand.” (citing § 1447(c)).

Indeed, the removal statute, 28 U.S.C. § 1441(a), contemplates removal only by a defendant. See 28 U.S.C. § 1441(a) (“[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by *the defendant or the defendants*, to the district court of the United States for the district and division embracing the place where such action is pending.” (emphasis added)); see also 28 U.S.C. § 1446(a) (“[a] defendant or defendants desiring to remove any civil action from a State court shall file . . . a notice of removal” (emphasis added)). As such, Plaintiff’s removal of his own action from state to federal court is procedurally defective, see § 1447, and this case must be remanded.

Accordingly, Defendants’ motion to remand, dkt. no. 4, is **GRANTED**. This case is hereby remanded to Glynn County State Court.

SO ORDERED, this 27th day of March, 2023.



HON. LISA GODBEY WOOD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA